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WRITTEN TESTIMONY OF ATTORNEY BARRY D. HOROWITZ BEFORE THE  
JUDICIARY COMMITTEE OF THE GENERAL ASSEMBLY REGARDING THE  
UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

Dear Honorable Committee Members:

My name is Attorney Barry Horowitz, I am member of the Connecticut Bar Association Estate Planning and Probate Section, and a founding member of the Hartford law firm of Nirenstein, Horowitz & Associates, a law firm that does exclusively estate planning law. I am before you today to express my concerns regarding the Uniform Real Property Transfer on Death Act, contained in Raised Bill No 1162 (hereinafter referred to as the "Act")

The Act is an attempt to provide a simplified national unified procedure to transfer real estate upon death without probate, by allowing a deed to be prepared with a death beneficiary instead of a transfer by will.

This informal procedure is very controversial, as it avoids the protection of the probate courts without even the formality of a trust agreement or normal deed formalities. To date, after 4 years of debate, only 6 states have enacted it (North Dakota, Oregon, Illinois, Nebraska, Nevada and Hawaii). None of the states that we normally look to for guidance have chosen to enact it. The Estate Planning and Probate Section of the Bar only became aware of this Bill on Tuesday. Our Uniform Laws Subcommittee has not had time to review the legislation and consider to what extent it may interfere with Connecticut law.

Issues that I believe need to be considered are as follows:

- . Antilapse
- . Revocation upon Divorce
- . Homicide
- . Simultaneous Death provisions

- . Potential for elder abuse
- . Effect on Estate Tax Reporting
- . Conveyance of title issues
- . Lack of Will formalities
- . Lack of Deed formalities
- . Capacity

There are also specific aspects of the Act that are troubling.

. The Act mentions "tenant by the entirety". See section 15(4). Tenancy by the Entirety does not exist in Connecticut.

. Section 20 states that the transfer is "nontestamentary". A transfer taking effect on death is testamentary.

. Capacity is that required to make a will, which is a lower standard than other forms of conveyance and lower than applied to deeds, yet this transfer is by deed and is without the protection of the transferor of will formalities Section 21.

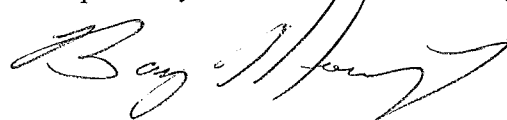
. If one of two transferees dies, the entire property goes to the other transferee, regardless of the wishes of the the transferor. Section 26(4).

. The preprinted forms do not comply with our statute of deeds.

. The use of preprinted forms without even deed formalities makes it far too easy for an aggressive heir to pressure an elder to transfer the property to him or her, without the transfer even being witnessed. Claims of undue influence on the part of an heir are already common. This Act has the potential of making such claims far more common and may just end up being a "make work" bill for attorneys.

For all these reasons, at this time the portion of Raised Bill No. 1162, sections 14 to 32 inclusive, entitled the Uniform Real Property Transfer on Death Act should not be allowed to leave the Judiciary Committee. The Bar Association sections on Estate Planning and Probate, Elder Law and Real Estate Law; as well as the Probate Assembly; the Connecticut Bankers Association; Consumer Protection and the Attorney General should be given an opportunity to comment, amend and be part of the process. Only then should this section of Connecticut Law be so dramatically altered.

Respectfully submitted,



Barry D. Horowitz, JD, LLM